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E-FILED on March 21, 2007

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Attorneys for Debtors and Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

Case No. BK-S-06-10725 LBR
 Case No. BK-S-06-10726 LBR
 Case No. BK-S-06-10727 LBR
 Case No. BK-S-06-10728 LBR
 Case No. BK-S-06-10729 LBR

In re:
 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

Chapter 11

In re:
 USA CAPITAL DIVERSIFIED TRUST DEED
 FUND, LLC,
 Debtor.

Jointly Administered Under
 Case No. BK-S-06-10725 LBR

In re:
 USA CAPITAL FIRST TRUST DEED FUND,
 LLC,
 Debtor.

USA COMMERCIAL MORTGAGE
COMPANY'S OPPOSITION TO
MOTION TO COMPEL
PRODUCTION FILED ON BEHALF
OF DEL AND ERNESTINE BUNCH

In re:
 USA SECURITIES, LLC,
 Debtor.

Affects:
☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Securities, LLC
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC

Hearing Date: March 27, 2007
 Hearing Time: 9:30 a.m.

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USA Commercial Mortgage Company (“USACM”), by and through its counsel, hereby files its opposition to the Motion to Compel Production filed on behalf of Del and Ernestine Bunch (“Bunch”). The discovery is supposed to be related to the Objection filed by USACM to the Bunch claim (Docket #1099) (the “Objection”). A copy of the Objection is attached hereto as **Exhibit “A”**. That Objection is based upon the fact that Bunch received payments from USACM within 90 days of the filing of USACM’s Chapter 11 petition (which was filed on April 13, 2006) and, therefore, the Bunch claim should be disallowed based upon Bankruptcy Code §502(d). Bunch has served two requests for production of documents and USACM has responded to each with documents and objections. The Responses are attached as **Exhibits “B” and “C”**. The Bunch discovery requests asked for documents which were not only unrelated to the Objection but were not likely to lead to relevant information with regard to the Objection.¹ In support of its Opposition, USACM states as follows:

I. OVERBROAD REQUESTS AND USACM’S RESPONSE

1. Bunch requested USACM’s 2005 tax return and the documents provided to USACM’s accountants to prepare the tax return. USACM’s current management responded by producing the tax return but stated it did not know which documents had been provided to the accountants.

2. Bunch requested production of “all bank statements” from certain accounts of the USACM *without limiting the request to any particular years*. USACM produced copies of its the bank statements for the period January, 2005 through the currently available date. This provided bank statements for a year prior to filing of the petition. There is no explanation why prior bank statements are relevant to the Objection. These documents only appear relevant to some litigation that Bunch may intend to have against other parties.

¹ Some of the requested documents relate to USA Investment Partners, LLC (“USAIP”) and it is likely that the information would be useful for Bunch to prosecute a claim against USAIP but not in the matter before this Court.

3. Bunch requested production of “all bank statements” from certain accounts of USAIP *without limiting the request to any particular years*. USACM could not produce any of these bank statements without going through the stipulated protective order procedure with USAIP’s counsel. This has been completed on March 21, 2007. However, there is no explanation by Bunch why USAIP’s bank statements are relevant to the Objection. These documents only appear relevant to some litigation that Bunch may have against other parties.

4. Bunch requested production of bank statements from a Wells Fargo Bank (discretionary) account. USACM’s management hasn’t located such records.

5. In the Second Request, Bunch requested documents related to USAIP’s income tax returns. USACM’s current management stated that it does not have these documents.

II. BACKGROUND

6. On April 13, 2006 (“Petition Date”), USACM, USA Capital Realty Advisors, LLC (“USA Realty”), USA Capital Diversified Trust Deed Fund, LLC (“DTDF”), USA Capital First Trust Deed Fund, LLC (“FTDF” and together with DTDF, the “Funds”), and USA Securities, LLC (“USA Securities”) (collectively the “Debtors”) filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

7. Post-petition, management duties of USACM were conducted by Thomas J. Allison of Mesirow Financial Interim Management, LLC (“Mesirow”) who served as the President and Chief Restructuring Officer.

8. Bunch filed their Claim on November 17, 2006, claiming an unsecured debt owed to it for “Money Loaned” in the amount of \$11,358,661.28. Bunch attached certain exhibits to their Claim including two self-prepared charts showing late fees, interest due and payments made, and a copy of a promissory note (“Note”) entered into between Bunch and USACM. The Note, in favor of Bunch, evidences a loan of \$10,000,000 to USACM at an interest rate of 20% per annum. As demonstrated by the self-prepared charts attached to the Claim, however, payments were made to Bunch based on interest rates as high as 24% per annum.

9. Bunch received payments from USACM of \$217,000 on February 8, 2006, and \$196,000 on March 10, 2006. The date and amount of these payments is not disputed by Bunch. These payments were both made within 90 days prior to the Petition Date and are the basis for an avoidance action pursuant to Bankruptcy Code § 547.

10. The fact that Bunch received monthly payments of interest prior to 2006 is not disputed by USACM.

13. The Bunch defense to the Objection is that the payments “by the debtor was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee” as required by the first prong of Bankruptcy Code § 547(c)(2).

III. APPLICABLE AUTHORITY

The permissible range of discovery is broad but it is not without limits. The Bankruptcy Rule 9014 makes Bankruptcy Rule 7026 applicable to contested matters such as an objection to claim. Bankruptcy Rule 7026 adopts FRCP 26. FRCP 26 states:

(b) DISCOVERY SCOPE AND LIMITS. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) *In General*. Parties may obtain discovery regarding any matter, not privileged, **that is relevant to the claim or defense of any party**, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. **Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.** All discovery is subject to the limitations imposed by Rule 26(b)(2)(i), (ii), and (iii).

The lack of relevancy is grounds for denial of the Motion. Discovery must be “relevant to subject matter of the pending action.” *In re Shur*, 225 B.R. 295, 298 (Bankr. E.D.N.Y. 1998). The mere possibility that a further or additional objection might be filed later is not grounds for expanding the scope of discovery. See *In re Lane*, 302 B.R. 75, 79-80 (Bankr. D.Idaho 2003). “[W]hen relevancy is not apparent on the face of the request, the party seeking the discovery has the burden to show the relevancy of the request. *Steil v. Humana Kansas City, Inc.*, 197 F.R.D.

442, 445 (D.Kan.2000).” *Transcor, Inc. v. Furney Charters, Inc.*, 212 F.R.D. 588, 591 (D.Kan. 2003).

IV. OBJECTION TO THE BUNCH MOTION

USACM has analyzed the Bunch Motion to Compel Production and contends that it should be denied to the extent it seeks production of documents unrelated to the Objection which is based upon Bankruptcy Code §502(d). The Bunches were recipients of transfers from USACM made to them within 90 days prior to the Petition Dates that are avoidable under section 547(b) of the Bankruptcy Code as preferential transfers. No other grounds for the Objection has been alleged. The factors which relate to this objection are USACM’s financial condition in January, February, March and April, 2006. Prior financial condition will not be relevant at trial. Therefore, the Bunch Motion should be denied to the extent it requests documents unrelated to the facts which would be relevant to Bankruptcy Code §502(d).

Searching for irrelevant records at the same time as USACM’s management was preparing the accounting for the consummation of the Debtors’ Plan of Reorganization required USACM’s management to prioritize its resources. While counsel was working on legal issues and requesting documentation, management had to prepare numerous schedules necessary for distributions to investors/creditors. After documents are located, they have to be copied and reviewed. In addition, the documents relating to USAIP have to be reviewed by USAIP counsel.²

Despite this Opposition and the good basis for refusing to produce additional documents, USACM will produce additional documents on March 22, 2007 consisting of the following bank statements:

Wells Fargo Bank account no. 083-4610149 (a USACM account)

January, 2000 to December, 2004 with the following missing pages

2002, January –May –missing pages 2 & 4

2003, January and March, -missing pages 2 & 4

² USAIP counsel acted expeditiously in regard to these documents and are not the cause of any delay.

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2004, May, October, November & December – missing pages 2 & 4
Wells Fargo Bank account no. 089-5737864 (USACM Collection Account)

January, 2000 to December, 2004

2000, December – missing page 1

2001, December – missing all pages

2003, August & November – missing page 11

Community Bank account no. 10303709 (a USAIP account)

April, 2002 to December, 2004

Wells Fargo Bank account no. 486-5657146 (Investor Account)

January, 2001 to December, 2004

2001, December – missing page 2

2002, March – missing page 3

2003, February, May, July, September & December – missing page 4

2004, August, September & October – missing page 4

A search revealed that there were no other statements for account no. 562-7688186 (USACM) because the account was opened in March, 2005.

V. CONCLUSION

For the reasons set forth herein, USACM respectfully requests that the Court deny the Bunch Motion to Compel Production. The discovery requested by the Motion was not relevant to the Objection and not likely to lead to relevant information in this matter.

Respectfully submitted March 21, 2007.

/s/ Lenard E. Schwartzer

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EXHIBIT “A”

E-FILED on December 11, 2006

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**UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA**

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

Case No. BK-S-06-10725 LBR
 Case No. BK-S-06-10726 LBR
 Case No. BK-S-06-10727 LBR
 Case No. BK-S-06-10728 LBR
 Case No. BK-S-06-10729 LBR

In re:
 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

Chapter 11

In re:
 USA CAPITAL DIVERSIFIED TRUST DEED
 FUND, LLC,
 Debtor.

Jointly Administered Under
 Case No. BK-S-06-10725 LBR

In re:
 USA CAPITAL FIRST TRUST DEED FUND,
 LLC,
 Debtor.

**USA COMMERCIAL MORTGAGE
 COMPANY'S OBJECTION TO
 PROOF OF CLAIM NO. 1099 FILED
 BY DEL AND ERNESTINE BUNCH**

In re:
 USA SECURITIES, LLC,
 Debtor.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC

Hearing Date: January 17, 2007
 Hearing Time: 9:30 a.m.

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1 USA Commercial Mortgage Company (“USACM”), by and through its counsel, hereby
 2 files its objection (“Objection”) to Claim No. 1099 (“Claim”) filed by Del and Ernestine Bunch
 3 (“Bunches”) and moves this Court, pursuant to section 502 of title 11 of the United States Code
 4 (the “Bankruptcy Code”), Rule 3007 of the Federal Rules of Bankruptcy Procedure (the
 5 “Bankruptcy Rules”), and Rule 3007 of the Local Rules of Bankruptcy Practice (the “Local
 6 Rules”) for an order granting the relief sought by this Objection. In support of its Objection,
 7 USACM states as follows:

8 **I. JURISDICTION**

9 1. The Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 1334 and
 10 157. Venue is appropriate under 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding
 11 under 28 U.S.C. § 157(b)(2)(B).

12 2. The statutory predicate for the relief requested herein is 11 U.S.C. § 502 and
 13 Bankruptcy Rule 3007.

14 **II. BACKGROUND**

15 3. On April 13, 2006 (“Petition Date”), USACM, USA Capital Realty Advisors, LLC
 16 (“USA Realty”), USA Capital Diversified Trust Deed Fund, LLC (“DTDF”), USA Capital First
 17 Trust Deed Fund, LLC (“FTDF” and together with DTDF, the “Funds”), and USA Securities,
 18 LLC (“USA Securities”) (collectively the “Debtors”) filed voluntary petitions for relief under
 19 chapter 11 of the Bankruptcy Code. USACM and the other Debtors continue to operate their
 20 businesses, if any, as debtors-in-possession pursuant to sections 1107(a) and 1108 of the
 21 Bankruptcy Code. Management duties of USACM are conducted by Thomas J. Allison of
 22 Mesirow Financial Interim Management, LLC (“Mesirow”) who serves as the President and Chief
 23 Restructuring Officer.

24 4. On May 10, 2006, the Office of the United States Trustee filed notice indicating
 25 that the Official Committee of Unsecured Creditors of USA Commercial Mortgage Company and
 26 the Official Committee of Holders of Executory Contract Rights Through USA Commercial
 27 Mortgage Company (collectively the “Committees”) had been formed. No trustee or examiner has
 28 been appointed.

5. On September 14, 2006, the Court entered its Order Setting Deadline to File Proofs of Claim and Proofs of Interest (the “Bar Date Order”) (Docket No. 1280). The Bar Date Order established 5:00 p.m., prevailing Pacific Time, on November 13, 2006, as the deadline for creditors to file proof of claims (“Bar Date”). The Court has extended the deadline for Direct Lenders to file proofs of claim to January 13, 2007.

6. On September 25, 2006, USACM served a copy of the Bar Date Order on its service lists (Docket No. 1358).

7. The Bunches filed their Claim on November 17, 2006, claiming an unsecured debt owed to it for “Money Loaned” in the amount of \$11,358,661.28. The Bunches attached certain exhibits to their Claim including two self-prepared charts showing late fees, interest due and payments made, and a copy of a promissory note (“Note”) entered into between the Bunches and USACM. The Note, in favor of the Bunches, evidences a loan of \$10,000,000 to USACM at an interest rate of 20% per annum. As demonstrated by the self-prepared charts attached to the Claim, however, payments were made to the Bunches based on an interest rate of 24% per annum.

8. Upon information and belief, USACM asserts that the Bunches received payments from USACM of \$217,000 on February 8, 2006, and \$196,000 on March 10, 2006. The existence of these payments is also reflected in the exhibits attached to the Claim. These payments were both made within 90 days prior to the Petition Date.

III. APPLICABLE AUTHORITY

9. Pursuant to section 502(a) of the Bankruptcy Code, any claim for which a proof of claim has been filed will be allowed unless a party in interest objects. If a party in interest objects to the proof of claim, the court, after notice and hearing, shall determine the amount of the claim and shall allow the claim except to the extent that the claim is “unenforceable against the debtor . . . under any . . . applicable law for a reason other than because such claim is contingent or unmatured.” 11 U.S.C. § 502(b).

10. USACM is entitled to object to proofs of claim under section 502(a) of the Bankruptcy Code.

11. A properly filed proof of claim is presumed valid under Bankruptcy Rule 3001(f). However, once an objection to the proof of claim controverts the presumption, the creditor ultimately bears the burden of persuasion as to the validity and amount of the claim. *See Ashford v. Consolidated Pioneer Mortg. (In re Consolidated Pioneer Mortg.)*, 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996). The ultimate burden of proof as to the validity of a proof of claim “remains at all times upon the claimant.” *Lundell v. Anchor Constr. Specialists, Inc. (In re Lundell)*, 223 F.3d 1035, 1039 (9th Cir. 2000).

12. Section 502(d) of the Bankruptcy Code states that:

[T]he court shall disallow any claim of any entity . . . that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of this title, unless such entity or transferee has paid the amount, or turned over any such property for which such entity or transferee is liable under section 522(i), 542, 543, 550, or 553 of this title.

IV. OBJECTION TO THE BUNCHES' CLAIM

13. USACM has analyzed the Bunches' Claim and contends that it should be disallowed under section 502(d) of the Bankruptcy Code. The Bunches were recipients of transfers from USACM made to them within 90 days prior to the Petition Dates that are avoidable under section 547(b) of the Bankruptcy Code as preferential transfers. Also, there may be other grounds for avoidance of pre-petition transfers from USACM to the Bunches. Therefore, the Bunches' Claim should be disallowed pursuant to section 502(d) of the Bankruptcy Code.

14. USACM reserves the right to further object to any and all claims, whether or not the subject of this Objection, for allowance, voting, and/or distribution purposes, and any other grounds. USACM further reserves the right to modify, supplement and/or amend this Objection as it pertains to any claim or claimant herein.

V. CONCLUSION

For the reasons set forth herein, USACM respectfully requests that the Court enter an order sustaining its Objection and disallowing Claim No. 1099 filed by Del and Ernestine Bunch in its entirety because they are the recipients of fraudulent transfers. Section 502(d) of the Bankruptcy Code, therefore, mandates that the Claim be disallowed. USACM also requests that the Court

1 grant such other and further relief as it deems just and proper.

2 Respectfully submitted this 11th day of December, 2006.

3
4 /s/ Jeanette E. McPherson

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11 Annette W. Jarvis, Utah Bar No. 1649
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EXHIBIT “B”

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**UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA**

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

Case No. BK-S-06-10725 LBR
 Case No. BK-S-06-10726 LBR
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In re:
 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

In re:
 USA CAPITAL DIVERSIFIED TRUST DEED FUND,
 LLC,
 Debtor.

Chapter 11

In re:
 USA CAPITAL FIRST TRUST DEED FUND, LLC,
 Debtor.

Jointly Administered Under
 Case No. BK-S-06-10725 LBR

In re:
 USA SECURITIES, LLC,
 Debtor.

**RESPONSES TO FIRST REQUEST
 FOR PRODUCTION OF
 DOCUMENTS SERVED BY DEL
 AND ERNESTINE BUNCH UPON
 USA COMMERCIAL
 MORTGAGE CO.**

Affects:
☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Securities, LLC
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA First Trust Deed Fund, LLC

Date of Hearing: N/A
 Time of Hearing: N/A

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USA Commercial Mortgage Company ("USACM") hereby responds to Del and Ernestine Bunch's ("Bunch") First Request for Production of Documents, as follows:

REQUEST NO. 1: Please provide a copy of the tax return, with all attached schedules, filed by USA Commercial Mortgage Co. for tax year 2005, including any requests for extensions, communication with the Internal Revenue Service, or its agents, employees or assigns related to the 2005 tax return.

RESPONSE TO REQUEST NO. 1: A copy of USACM's tax return for the year 2005 will be produced at a time and place agreed upon by counsel for the parties. USACM's current management is not currently aware of the existence of any requests for extensions, or communications with the Internal Revenue Service relating to this tax return.

REQUEST NO. 2: Please provide copies of all documents submitted by USA Commercial Mortgage Co. to any accounting firm for use in preparation of the 2005 tax return on behalf of USA Commercial Mortgage Co.

RESPONSE TO REQUEST NO. 2: USACM's current management does not know what documents may have been provided to the accounting firm for use in the preparation of the 2005 tax return. However, Beadle, McBride Evans & Reeves, LLP (n/k/a Beadle, McBride & Reeves, LLC) prepared the tax return and may have such documents in its possession.

REQUEST NO. 3: Please provide copies of all bank statements regarding account no. 083-4610149 (Choice IV Commercial Checking Account) maintained by USA Commercial Mortgage Co. with Wells Fargo Bank.

RESPONSE TO REQUEST NO. 3: USACM objects to this request as being overbroad, burdensome and requesting documents that are not relevant to the issues in this matter and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving these objections, the account statements regarding account no. 083-4610149 for the period between January 2005 and April 2006 will be produced at a time and place agreed upon by counsel for the parties.

REQUEST NO. 4: Please provide copies of all bank statements regarding account no. 562-7688186 (Basic Checking Account) maintained by USA Commercial Mortgage Co. with

1 **Wells Fargo Bank.**

2 **RESPONSE TO REQUEST NO. 4:** The account statements regarding account no. 562-
3 7688186 for the period between March 2005 (which is the month the account was opened) and
4 April 2006 will be produced at a time and place agreed upon by counsel for the parties.

5 **REQUEST NO. 5:** Please provide copies of all bank statements regarding account no.
6 0895737864 (Collections Trust Account) maintained by USA Commercial Mortgage Co. with
7 Wells Fargo Bank.

8 **RESPONSE TO REQUEST NO. 5:** USACM objects to this request as being overbroad,
9 burdensome and requesting documents that are not relevant to the issues in this matter and not
10 reasonably calculated to lead to the discovery of admissible evidence. Without waiving these
11 objections, the account statements regarding account no. 0895737864 for the period between
12 January 2005 and April 2006 will be provided at a time and place agreed upon by counsel for the
13 parties.

14 **REQUEST NO. 6:** Please provide copies of all bank statements regarding account no.
15 0486-5647146 (Investors Trust Account) maintained by USA Commercial Mortgage Co. with
16 Wells Fargo Bank.

17 **RESPONSE TO REQUEST NO. 6:** USACM objects to this request as being overbroad,
18 burdensome and requesting documents that are not relevant to the issues in this matter and not
19 reasonably calculated to lead to the discovery of admissible evidence. Without waiving these
20 objections, the account statements regarding account no. 0486-5647146 for the period between
21 January 2005 and April 2006 will be provided at a time and place agreed upon by counsel for the
22 parties.

23 **REQUEST NO. 7**

24 Please provide copies of all bank statements regarding account no. 562-7688020
25 (Discretionary) maintained by USA Commercial Mortgage Co. with Wells Fargo Bank.:

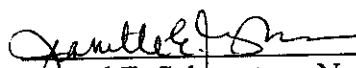
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1 **RESPONSE TO REQUEST NO. 7:** USACM's current management does not have any
2 record of this bank account, and therefore, is not currently aware of the existence of any such
3 documents.

4 DATED this 28th day of February, 2007.

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6 

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EXHIBIT “C”

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**UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA**

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

Case No. BK-S-06-10725 LBR
 Case No. BK-S-06-10726 LBR
 Case No. BK-S-06-10727 LBR
 Case No. BK-S-06-10728 LBR
 Case No. BK-S-06-10729 LBR

In re:
 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

In re:
 USA CAPITAL DIVERSIFIED TRUST DEED FUND,
 LLC,
 Debtor.

Chapter 11

In re:
 USA CAPITAL FIRST TRUST DEED FUND, LLC,
 Debtor.

Jointly Administered Under
 Case No. BK-S-06-10725 LBR

In re:
 USA SECURITIES, LLC,
 Debtor.

**RESPONSES TO SECOND
 REQUEST FOR PRODUCTION
 OF DOCUMENTS SERVED BY
 DEL AND ERNESTINE BUNCH
 UPON USA COMMERCIAL
 MORTGAGE CO.**

Affects:
☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Securities, LLC
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA First Trust Deed Fund, LLC

Date of Hearing: N/A
 Time of Hearing: N/A

SCHWARTZER & MCPHERSON LAW FIRM
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1 USA Commercial Mortgage Company ("USACM") hereby responds to Del and Ernestine
2 Bunch's ("Bunch") Second Request for Production of Documents, as follows:

3 **REQUEST NO. 1:** Please produce copies of the 2005 tax return, including all schedules
4 and/or attachments, filed for tax year 2005 on behalf of Investment Partners, including, but
5 not limited to, any requests for extension or other communications with the Internal
6 Revenue Service regarding the 2005 tax return.

7 **RESPONSE TO REQUEST NO. 1:** USACM's current management is not aware that it
8 has in its possession the 2005 tax return for Investment Partners or any documents relating to
9 requests for extensions or other communications with the Internal Revenue Service. However,
10 there are many thousands of pages of documents that still need to be reviewed pursuant to the
11 terms of the Stipulated Protective Order entered in Plaintiffs' bankruptcy case on January 31, 2007
12 (the "Stipulated Protective Order Review"). The order deals with documents of Investment
13 Partners that are currently in the Debtors' possession. To the extent the 2005 tax return of
14 Investment Partners is identified during the Stipulated Protective Order Review, it will be
15 produced at a time and place agreed upon by counsel for the parties. Investment Partners may also
16 have a copy of the 2005 tax return.

17 **REQUEST NO. 2:** Please provide copies of all documents within your possession or
18 control submitted by you and/or Investment Partners to any accountant or accounting firm
19 for use in preparation of the 2005 tax return on behalf of Investment Partners.

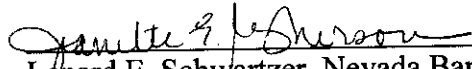
20 **RESPONSE TO REQUEST NO. 2:** USACM's current management is not aware that it
21 has in its possession the documents that were provided to any accounting firm for use in the
22 preparation of the 2005 tax return for Investment Partners. However, there are many thousands of
23 pages of documents that still need to be reviewed pursuant to the terms of the Stipulated Protective
24 Order entered in Plaintiffs' bankruptcy case on January 31, 2007 (the "Stipulated Protective Order
25 Review"). The order deals with documents of Investment Partners that are currently in the
26 possession of the Debtors. To the extent the documents that were provided to any accounting firm
27 for use in the preparation of 2005 tax return of Investment Partners are identified during the
28 Stipulated Protective Order Review, they will be produced at a time and place agreed upon by

1 counsel for the parties. Investment Partners may also have copies of the documents that were
2 provided to any accounting firm for use in the preparation of 2005 tax return.

3 **REQUEST NO. 3:** Please provide copies of all bank statements within your possession or
4 control regarding account no. 10303709 maintained by Investment Partners at Community
5 Bank of Nevada.

6 **RESPONSE TO REQUEST NO. 3:** USACM objects to this request as being overbroad,
7 burdensome and requesting documents that are not relevant to the issues in this matter and not
8 reasonably calculated to lead to the discovery of admissible evidence. Without waiving these
9 objections, the account statements regarding account no. 10303709 for the period between January
10 2005 and April 2006 will be produced at a time and place agreed upon by counsel for the parties
11 after they have gone through the Stipulated Protective Order Review.

12 DATED this 28th day of February, 2007.

13
14 
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